

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 10:</b> Adoption	<b>Effective Date:</b> TBD
	<b>Section X:</b> Evaluating Background Checks for Adoption Finalizations	<b>Version:</b> 1

**POLICY [NEW]****OLD POLICY: N/A**

1. If a background check reveals the **applicant** has had a **conviction** for any crimes listed below, DCS or a LCPA will **not consent** to adoption:
  - a. Murder
  - b. Causing or assisting suicide
  - c. Reckless homicide
  - d. Battery as a felony; see exception in Policy Statement #2 below if convicted more than five (5) years ago
  - e. Aggravated battery
  - f. Kidnapping
  - g. Criminal confinement
  - h. A felony sex offense under [IC-35-42-4](#)
  - i. Carjacking; see exception in Policy Statement #2 below if convicted more than five (5) years ago
  - j. Arson; see exception in Policy Statement #2 below if convicted more than five (5) years ago
  - k. Incest
  - l. Neglect of a dependent
  - m. Child selling
  - n. A felony involving a weapon under [IC 35-47](#) or [IC 35-47.5](#); see exception in Policy Statement #2 below if convicted more than five (5) years ago
  - o. A felony relating to controlled substances under [IC 35-48-4](#); see exception in Policy Statement #2 below if convicted more than five (5) years ago
  - p. An offense relating to material or a performance that is harmful to minors or obscene under [IC 35-49-3](#)
  - q. A felony that is substantially equivalent to a felony listed above for which the conviction was entered in another state
  - r. A sex offender as defined in [IC 5-2-12-4](#)
2. DCS or a LCPA will evaluate the appropriateness of the home for adoption, submit a recommendation and consent decision to the court and will defer to the court's written finding if
  - a. The background check reveals the **applicant** has had a **conviction** for the following offenses from the list in Policy Statement #1 above, **if they occurred more than five (5) years ago**:
    - i. Battery as a felony
    - ii. Carjacking
    - iii. Arson
    - iv. A felony involving a weapon under [IC 35-47](#) or [IC 35-47.5](#)
    - v. A felony relating to controlled substances under [IC 35-48-4](#)
    - vi. A felony that is substantially equivalent to a felony listed in items (a) through (e) above for which the conviction was entered in another state

- b. The background check reveals the **applicant** has:
  - i. Any convictions, juvenile adjudications or pending<sup>1</sup> charges for any felonies not listed under Policy Statement 1 or 2; or
  - ii. Any convictions, juvenile adjudications or pending<sup>1</sup> charges for any misdemeanors relating to the health and safety of a child; or
  - iii. Any substantiations as a perpetrator of child abuse/neglect (CA/N)
3. DCS will submit a **written recommendation** to the court regarding the appropriateness of the adoption and will **defer to the court's written finding if anyone age 14 or older living in the home other than the applicant** has:
  - a. Any convictions, juvenile adjudications or pending<sup>1</sup> charges for any felonies; or
  - b. Any convictions, juvenile adjudications or pending<sup>1</sup> charges for any misdemeanors relating to the health and safety of a child; or
  - c. Any substantiations as a perpetrator of child abuse/neglect (CA/N).
4. DCS will submit a written recommendation to the court regarding the appropriateness of the adoption and will defer to the court's written finding if anyone in the home **under age 14** has any CA/N substantiations.

See also related policy, [10.X Background Checks for Private Adoptions and Adoptions of DCS Wards](#)

#### Code References

- [IC 31-19-11-1 Decree; affidavit; felony convictions](#)

### PROCEDURE

#### FOR ADOPTIONS INVOLVING APPLICANTS WHO ARE PETITIONING TO ADOPT A DCS WARD

After completing the background checks (see separate policy, [10.X Background Checks for Private Adoptions and Adoptions of DCS Wards](#)), the local DCS adoption worker will:

1. Carefully review the results
2. If the background check shows that the **applicant** has criminal or civil history listed in Policy Statement 1, send written notice denying the adoption. See [Sample Notice of Denial/Court Hearing](#).
3. If the background check shows that the **applicant** or **anyone else living in the house** has any other criminal or civil history (see Policy Statements 2 through 5):
  - a. Consult with other DCS staff as needed to arrive at a written recommendation about the appropriateness of the adoption based on:
    - i. Information yielded on all background checks; and
    - ii. The current home environment; and
    - iii. The ability of the proposed adoptive parent to provide for the child's safety and well-being; and
    - iv. The length of time that has passed since the conviction, juvenile adjudication or CA/N substantiation; and
    - v. The severity of the offense; and
    - vi. Evidence of the person's rehabilitation; and

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<sup>1</sup> To be considered a reason for denial, the charges must be filed within 6 months of the arrest

- vii. The duration and quality of the relationship between the child and the proposed adoptive parent, if the child has already been placed in the home; and;
- viii. If there is a child living in the applicant's home who has behavioral issues (violence, sexual offender, etc), the soundness of the proposed safety plan to protect adopted children coming into the home.
- b. Notify the applicant in writing that the finalization of the adoption may be denied due to negative criminal history and that further review must occur by the court. Include the recommendation made by DCS to the court. See [Sample Notice of Denial/Court Hearing](#).

FOR ADOPTIONS INVOLVING APPLICANTS WHO ARE PETITIONING TO ADOPT A CHILD WHO IS **NOT** A DCS WARD

The DCS central office background checks worker will:

1. Follow procedural steps 1 through 3 on pages 2 and 3 of this document, however, he/she will NOT send notice directly to the applicant.
2. Send the LCPA or petitioners attorney a separate memo for each individual checked, using one of the following statements:
  - a. "DCS has received the Fingerprint-Based National Criminal History regarding [name of prospective adoptive parent or household member], born [date of birth]. The results indicate that [name] does **not** have criminal and/or civil history that would disqualify this individual from being an adoptive parent or residing in the home of an adoptive child." **OR**
  - b. "DCS has received the Fingerprint-Based National Criminal History regarding [name of prospective adoptive parent or household member], born [date of birth]. The results indicate that [name] **does have** criminal and/or civil history that **disqualifies** this individual from being an adoptive parent or residing in the home with an adoptive child." **OR**
  - c. "DCS has received the Fingerprint-Based National Criminal History regarding [name of prospective adoptive parent or household member], [date of birth]. The results indicate that [name] **does have** a criminal and/or civil history that **may** disqualify this individual from being an adoptive parent or residing in the home with an adoptive child. The applicant may contact the Central Office Background check unit for further information. **The court will conduct a further review and make a final determination.**"

**PRACTICE GUIDANCE**

**FORMS AND TOOLS**

- [Sample Notice of Denial/Court Review](#)

**RELATED INFORMATION**